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Name Nancy E York

Signature Nancy E York

Date August 26, 2003

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Daggett, et al.

Serial No.: 10/007,747 - Case No.: SD9383CDB

Art Unit:

1646

Filed: December 7, 2001

For: HUMAN N-METHYL-D-ASPARTATE RECEPTOR
SUBUNITS, NUCLEIC ACIDS ENCODING SAME
AND USES THEREFOR

Examiner: Unknown

Examiner (Parent):

J. Ulm

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

RESPONSE TO RESTRICTION REQUIREMENT UNDER 37 C.F.R. §1.143

Sir:

Responsive to the outstanding Office Action dated August 4, 2003, in the above identified application, having a ONE (1) month period for response which expires September 4, 2003, Applicants respectfully request that the Examiner consider the following remarks.

REMARKS

Restriction Requirement

A restriction requirement of claims 37-45 has been issued in the above application. Specifically, the Examiner has advanced a three (3) Restriction Requirement, requiring Applicants to elect one of three inventions allegedly disclosed in the above application.

Group I, claims 37-40 drawn to purified receptor protein(s) and uses thereof.

Group II, claims 41 to 43, and 45 drawn to a receptor-specific antibody and methods of use, and

Group III, claims 44, drawn to transformed host cells.

Restriction of claims 37-40 (Group I) and claims 41-43 and 45 (Group II) under 35 U.S.C. 120 is respectfully traversed. It is respectfully submitted that a search of the Group I claims (drawn to, *inter alia*, the receptor polypeptides would, of necessity include a search of the Group II claims (drawn to the antibodies).

As such, no savings of PTO resources will be achieved by enforcing the restriction requirement presently asserted. Accordingly, reconsideration and withdrawal of the requirement for restriction and/or regrouping of the claims, e.g., by combining Groups I and II is respectfully requested. In order to be fully responsive, Applicants elect the invention defined by the Group I claims (i.e., claims 37-40) without prejudice to the prosecution of the non-elected claims in a related patent application.


Applicants retain the right to petition from the restriction requirement under 37 C.F.R. §1.144. Favorable reconsideration of the Restriction requirement is respectfully requested.

It is believed that the claims are in a condition for allowance and a notice to that effect is earnestly solicited.

If the Examiner believes that a telephone conference would be of value, he is requested to call the undersigned counsel at the number listed below.

Any additional fees required in connection with this submission may be taken from Merck Deposit Account No. 13-2755.

Respectfully submitted,

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